

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

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**MILTON RUBEN PACHECO PERALTA,**

**Plaintiff,**

**ORDER**

**-against-**

**12-CV-3179 (ARR) (RLM)**

**MOTTIS IRON WORKS, et al.,**

**Defendants.**  
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**ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:**

Currently pending before this Court, on a referral from the Honorable Allyne R. Ross, is the Motion for Default Judgment filed by plaintiff Milton Ruben Pacheco Peralta (“plaintiff”) against defendants Mottis Iron Works, M&O Iron Works, Inc., Mordechai’s Ironworks, Inc., Samuel Cohen, Motti Dannino, and Mordechai Daninno (collectively, “defendants”).

Multiple decisions from this court have denied motions for default judgment in Fair Labor Standards Act (“FLSA”) cases where, as here, the complaint pleads insufficient facts to establish jurisdiction or the liability of each defendant under the FLSA. See Jones v. E. Brooklyn Sec. Servs. Corp., 2012 WL 909830 (E.D.N.Y. Feb. 28, 2012) (citing Iqbal v. Ashcroft, 566 U.S. 662, 129 S.Ct. 1937 (2009)), adopted, 2012 WL 909825 (E.D.N.Y. Mar. 16, 2012); Day An Zhang v. L.G. Apparel Inc., 2011 WL 900183 (E.D.N.Y. Feb. 18, 2011), adopted, 2011 WL 900950 (E.D.N.Y. Mar. 15, 2011). Similar decisions throughout the country have also found the same. See Zhang, 2011 WL 900183, at \*2 (collecting cases). The complaint in the present action does little more than offer “threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, [which] do not suffice” to successfully plead a cause of action under the FLSA even in the presence of a default by defendants. Jones, 2012 WL

909830 (quoting Iqbal, 129 S.Ct. at 1949). For example, among other deficiencies, the complaint fails to sufficiently plead, and only alleges in conclusory terms, that all defendants are enterprises subject to the requirements of the FLSA.

That being said, plaintiff will be given an opportunity to withdraw his motion for a default judgment and to file an amended complaint within fourteen (14) days from the date of this Order, and to serve the amended complaint on defendants within thirty (30) days from the date of this Order. Plaintiff is hereby notified that the failure to file and serve the amended complaint within the times set forth above will likely result in a recommendation that the district court deny plaintiff's motion for a default judgment.

The Clerk is directed to enter this Order into the Electronic Case Filing system and to transmit copies, via Federal Express, to defendants at the following addresses:

Mottis Iron Works  
1516 Schenectady Avenue  
Brooklyn, NY 11203

M&O Iron Works, Inc.  
1516 Schenectady Avenue  
Brooklyn, NY 11203

Mordechai's Ironworks, Inc.  
471 Flushing Avenue  
Brooklyn, NY 11205

Samuel Cohen  
1516 Schenectady Avenue  
Brooklyn, NY 11203

Motti Dannino  
1516 Schenectady Avenue  
Brooklyn, NY 11203

Mordechai Dannino  
1571 East 15th Street  
Apartment 1F  
Brooklyn, NY 11230

**SO ORDERED.**

**Dated: Brooklyn, New York  
June 7, 2013**

*/s/ Roanne L. Mann*

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**ROANNE L. MANN  
UNITED STATES MAGISTRATE JUDGE**